

## **REMARKS**

Claims 1-3, 24-29, and 33-39 remain in this application. Claim 24 has been amended as required by the Examiner. The amendments were required by the Examiner, merely correct a minor informality, and do not raise new issues for search or consideration. No claims have been cancelled or added. The Applicants respectfully request reconsideration of this application in view of the above amendments and the following remarks.

### **Oath/Declaration is defective**

The Examiner has stated that the declaration is defective. A new declaration is enclosed herewith to replace the original declaration.

### **Claim Objections**

The Examiner has objected to claim 24 because informalities. Claim 24 has been amended herein to overcome the reasons for objection. The amendments merely correct a minor informality, and do not raise new issues for search or consideration.

### **35 U.S.C. §101 Rejection**

The Examiner has rejected claims 24-26 and 34 under 35 U.S.C. §101 on the grounds that the claimed invention is allegedly directed to non-statutory subject matter. Applicants respectfully disagree.

The Examiner has stated that “[t]he specification defines a “machine-readable medium” as data signals or carrier waves at page 6, paragraph 27”. Literally, this statement is not true. Paragraph [0027] discloses that “a carrier wave shall be regarded as comprising a machine-readable medium”. Accordingly, a carrier wave is an example

of a machine-readable medium. However, a machine-readable medium is not necessarily a carrier wave. The specification discloses other examples of machine-readable mediums. In particular, other types of machine-readable mediums are disclosed in paragraph [0026]. In particular, in paragraph [0026] it is disclosed that:

*“The machine-readable medium may include, but is not limited to, floppy diskettes, optical disks, CD-ROMs (Compact Disc-Read Only Memories), and magneto-optical disks, ROMs (Read Only Memories), RAMs (Random Access Memories), EPROMs (Erasable Programmable Read Only Memories), EEPROMs (Electromagnetic Erasable Programmable Read Only Memories), magnetic or optical cards, flash memory, or other type of media / machine-readable medium suitable for storing electronic instructions”.*

Accordingly, the term machine-readable medium may refer to a floppy diskette, CD-ROM, RAM, or the like. For at least this reason, claims 24-26 and 34 are directed to statutory subject matter.

Applicants also submit that instructions stored on a carrier wave are statutory subject matter. However, Applicants elect not to argue this point further at this time, to avoid unnecessary costs, and since the subject matter of claims 24-26 and 34 has already been shown to be statutory for the reasons discussed above.

### **35 U.S.C. §102(e) Rejection – Falik**

The Examiner has rejected claims 1-3, 24-29 and 33-39 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,263,425 issued to Falik (hereinafter “Falik”). The Applicants respectfully submit that the present claims are allowable over Falik.

Claim 1 recites a method comprising “*requesting access to a resource for a first process, the first process having a corresponding first semaphore; determining whether*

*the resource is being accessed by a second process, the second process having a corresponding second semaphore; and denying the first process access to the resource if the resource is being accessed by the second process as indicated by a lock on the resource, wherein the lock is indicated at the second semaphore”.*

As understood by Applicants, Falik discloses that multiple processes share a semaphore. In particular, it is stated at column 1, lines 49-51 that “*each process that uses a particular single bit semaphore has associated with it semaphore interface circuitry*”. In addition, as shown in FIG 1 of Falik, a first process of Processor A and a second process of Processor B both write to the same shared hardware semaphore 102 (see e.g., column 2, lines 37-38). As understood by Applicants, there is no teaching or suggestion of a first process having a corresponding first semaphore and a second process having a corresponding second semaphore. Accordingly, claim 1 is not anticipated by Falik.

As discussed in paragraph [0006] of the patent application, “[t]he classical approach ... is to implement a semaphore for each resource”. In contrast, claim 1 provides that the first semaphore corresponds to the first process and the second semaphore corresponds to the second process. FIG. 2 of the patent application shows a system in which each resource has a corresponding semaphore, whereas FIG 3 of the patent application shows a system in which each process has a corresponding semaphore system. There is a difference.

Anticipation under 35 U.S.C. Section 102 requires every element of the claimed invention be identically shown in a single prior art reference. The Federal Circuit has indicated that the standard for measuring lack of novelty by anticipation is strict identity. “*For a prior art reference to anticipate in terms of 35 U.S.C. Section 102, every element of the claimed invention must be identically shown in a single reference.*” In Re Bond, 910 F.2d 831, 15 USPQ.2d 1566 (Fed. Cir. 1990).

For at least these reasons, claim 1 is believed to be allowable over Falik. Claims 2-3, and 33 depend from claim 1 and are believed to be allowable therefor, as well as for the recitations set forth in each of these dependent claims.

Independent claims 24, 27, and 36, as well as each of these independent claims respective dependent claims, are also believed to be allowable.

### **Conclusion**

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance. Applicants respectfully request that the rejections be withdrawn and the claims be allowed at the earliest possible date.

### **Request For Telephone Interview**

The Examiner is invited to call Brent E. Vecchia at (303) 740-1980 if there remains any issue with allowance of the case.

### **Request For An Extension Of Time**

The Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17 for such an extension.

### **Charge Our Deposit Account**

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,  
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